IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

WP(C).No. 34116 of 2006(J)

PETITIONER:

SHINTO MATHEW, HSA (ENGLISH),
IRITTY HIGH SCHOOL, KEEZHUR P.O.,
KANNUR DISTRICT.

BY ADV. SRI.M.VIJAYAKUMAR

RESPONDENTS:

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1. DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM.

2. DISTRICT EDUCATIONAL OFFICER,
THALASSERY.

3. MANAGER, IRITTY HIGH SCHOOL,
P.O.KEEZHUR, KANNUR.

4. BINDU, HSA (MATHS),
IRITTY HIGH SCHOOL,
P.O.KEEZHUR, KANNUR.

R1 & R2 BY GOVT. PLEADER SRI. A.J. VARGHESE.
R4 BY ADV. SRI.N.NANDAKUMARA MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 34116 OF 2006

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Dated this the 15th day of January, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Ext.P1 is the staff fixation order for the year 2005-2006. Petitioner was working as HSA (English). Four posts were sanctioned for English, while five posts were sanctioned for Mathematics. The fourth respondent Smt. Bindu is working as HSA (Mathematics). By Ext.P1 order it is stated that Smt. Bindu, the junior most HSA rendered surplus is not eligible for protection and she is retrenched. Against the order Smt. Bindu preferred revision under Rule 12E(3) of Chapter XIVA KER. Ext. P2 is the order passed. Ext.P2 is impugned in this writ petition.

2. One of the contentions taken by the petitioner is that Ext.P2 order was passed without notice to the petitioner. In the proviso to Rule 12E(3) it is stated that an order affecting the interest of a person shall not be passed unless the person concerned has been given an opportunity of making a representation, which he may have to make against such orders. No doubt, learned counsel appearing for the fourth

respondent would contend that a perusal of Ext.P2 would show that actually nothing is decided as such against the petitioner and what the DPI has done is to direct a reconsideration. Ext.P1 order is admittedly in favour of the petitioner. A reconsideration is a matter which should have been done only after hearing the petitioner. In such circumstances I feel that Ext.P2 cannot be sustained and Ext.P2 is quashed only for the reason that the petitioner was not offered an opportunity of showing cause. Petitioner and the fourth respondent prayed that they may be heard.

In such circumstances, the writ petition is disposed of with a direction to the first respondent to hear the petitioner, the Manager and the fourth respondent and take a decision in accordance with law and communicate the same within a period of three weeks from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.